

HOUSE BILL 172

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO HEALTH; ENACTING THE SAFE STAFFING ACT; REQUIRING THE HEALTH CARE AUTHORITY TO PROMULGATE AND ENFORCE MINIMUM NURSE-TO-PATIENT STAFFING RATIOS IN HOSPITALS; CREATING THE STAFFING ADVISORY COMMITTEE; REQUIRING HOSPITALS TO DEVELOP AND IMPLEMENT POLICIES AND PROCEDURES; PROVIDING ADMINISTRATIVE PENALTIES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Health Care Code is enacted to read:

"NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Safe Staffing Act"."

SECTION 2. A new section of the Health Care Code is enacted to read:

"NEW MATERIAL] DEFINITIONS.--As used in the Safe Staffing
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1 Act:

2 A. "critical access hospital" means a hospital

3 that:

4 (1) provides twenty-four-hour emergency
5 department services;

6 (2) has an average length of stay of no longer
7 than ninety-six hours;

8 (3) has fewer than twenty-five acute care
9 inpatient beds; and

10 (4) is located at least thirty-five miles from
11 the closest hospital;

12 B. "critical care unit" means a unit that is
13 established to treat patients whose severity of medical
14 conditions require continuous monitoring and complex
15 intervention by nurses;

16 C. "hospital" means a public, private for-profit or
17 not-for-profit acute care, rehabilitation, limited service,
18 critical access, general or special health facility offering
19 inpatient services, nursing and overnight care seven days per
20 week on a twenty-four-hour basis that is capable of treating no
21 fewer than three patients for the purposes of diagnosing,
22 treating and providing medical, psychological or surgical care
23 for physical or mental illness, disease, injury, rehabilitative
24 conditions and pregnancies. "Hospital" does not include
25 clinics or outpatient departments that do not provide inpatient

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1 or emergency services;

2 D. "hospital network committee" means a staffing
3 committee established in a network of hospitals that are owned
4 or operated by the same entity;

5 E. "hospital staffing committee" means a staffing
6 committee established in a single hospital;

7 F. "hospital unit" includes critical care units,
8 burn units, labor and delivery rooms, post-anesthesia service
9 areas, emergency departments, operating rooms, pediatric units,
10 step-down or intermediate care units, specialty care units,
11 telemetry units, general medical care units, subacute care
12 units and transitional inpatient care units;

13 G. "rural" means a rural county or the area of a
14 partially rural county that is not a municipality as designated
15 by the health resources and services administration of the
16 United States department of health and human services; and

17 H. "staffing committee" means nurse-led groups that
18 create staffing plans for hospital units based on patient
19 population, acuity and needs and the skills and experience of
20 the hospital's staff."

21 SECTION 3. A new section of the Health Care Code is
22 enacted to read:

23 "[NEW MATERIAL] HOSPITAL STAFFING RATIOS--STATEWIDE
24 STAFFING ADVISORY COMMITTEE--CREATION--ORGANIZATION--

25 A. The "statewide staffing advisory committee" is
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1 created to advise the authority on matters related to nurse
2 staffing. The committee consists of fifteen members who
3 represent geographic areas of the state, appointed by the
4 secretary as follows:

5 (1) two members shall be private hospital
6 directors of nursing or chief nursing officers;

7 (2) two members shall be public hospital
8 directors of nursing or chief nursing officers;

9 (3) two members shall be rural hospital
10 directors of nursing or chief nursing officers;

11 (4) two members, at least one of whom shall be
12 a nurse, shall be nonmanagerial and nonsupervisory employees of
13 private hospitals who are primarily involved in direct patient
14 care;

15 (5) two members, at least one of whom shall be
16 a nurse, shall be nonmanagerial and nonsupervisory employees of
17 public hospitals who are primarily involved in direct patient
18 care;

19 (6) two members, at least one of whom shall be
20 a nurse, shall be nonmanagerial and nonsupervisory employees of
21 rural hospitals who are primarily involved in direct patient
22 care;

23 (7) two members shall represent labor
24 organizations that represent employees in public or private
25 hospitals; and

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(8) one member shall represent the authority and serve as chair.

B. The initial committee shall be appointed so that six members serve for three years, five members serve for two years and four members serve for one year; thereafter, terms shall be for three years. Members, except the representative of the authority, shall serve no more than three terms. A member shall serve until the member's successor has been appointed and qualified. The secretary shall fill a vacancy by appointment of a member from the same membership category, and that member shall serve the remainder of the unexpired term.

C. The secretary shall appoint the committee members by September 1, 2026. The committee shall elect officers, other than the chair, as the committee determines to be necessary.

D. The committee shall meet as often as necessary for the committee to advise and provide data for the authority to use in promulgating rules pursuant to Section 5 of the Safe Staffing Act. The initial meeting of the committee shall occur no later than October 1, 2026.

E. A majority of members currently serving constitutes a quorum. A majority of members present is needed for the conduct of business. Members who are not otherwise eligible for travel reimbursement from government funds are entitled to be reimbursed for per diem and mileage as provided

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1 in the Per Diem and Mileage Act and shall receive no other
2 compensation, perquisite or allowance for service on the
3 committee.

4 F. The secretary may remove a member for neglect of
5 duty."

6 SECTION 4. A new section of the Health Care Code is
7 enacted to read:

8 "[NEW MATERIAL] NURSING STAFFING RATIOS.--

9 A. All hospitals are subject to the following
10 minimum nurse staffing provisions:

11 (1) in an emergency department:

12 (a) a direct care registered nurse shall
13 be assigned to not more than one trauma patient;

14 (b) the ratio of direct care registered
15 nurses to patients shall average no more than one-to-four over
16 a twelve-hour shift and a single direct care registered nurse
17 may not be assigned more than five patients at a time; and

18 (c) direct care registered nurses
19 assigned to trauma patients may not be taken into account in
20 determining the average ratio;

21 (2) in an intensive care unit, a direct care
22 registered nurse shall be assigned to no more than two
23 patients;

24 (3) in a labor and delivery unit, a direct
25 care registered nurse shall be assigned no more than:

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(a) two patients, if the patients are not in active labor or experiencing complications; or

(b) one patient, if the patient is in active labor or is at any stage of labor and is experiencing complications;

(4) in a postpartum, antepartum or well-baby nursery, a direct care registered nurse shall be assigned to no more than six patients, counting mother and baby as separate patients;

(5) in a mother-baby unit, a direct care registered nurse shall be assigned to no more than eight patients, counting mother and baby as separate patients;

(6) in an operating room, a direct care registered nurse shall be assigned to no more than one patient;

(7) in an oncology unit, a direct care registered nurse shall be assigned to no more than four patients;

(8) in a post-anesthesia service unit, a direct care registered nurse shall be assigned to no more than two patients;

(9) in an intermediate care unit, a direct care registered nurse shall be assigned to no more than three patients;

(10) in a medical-surgical unit, a direct care registered nurse shall be assigned to no more than four

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patients;

(11) in a cardiac telemetry unit, a direct care registered nurse shall be assigned to no more than four patients;

(12) in a pediatric unit, a direct care registered nurse shall be assigned to no more than four patients;

(13) in a behavioral health unit, a direct care registered nurse shall be assigned to no more than four patients; and

(14) in a psychiatric unit, a direct care registered nurse shall be assigned to no more than four patients.

B. A charge nurse shall not be counted toward any ratio set in this section.

C. The ratios set forth in Subsection A of this section shall constitute the minimum number of registered nurses involved in direct patient care. Additional staff shall be assigned in accordance with a documented patient classification system for determining nursing care requirements, including the severity of the condition; the need for specialized equipment and technology; the complexity of clinical judgment needed to design, implement and evaluate the patient care plan; the ability for patient self-care; and the type of licensure required for care.

D. The ratios set forth in Subsection A of this section shall not supersede ratios that require higher levels of nurse staffing set in collective bargaining agreements."

SECTION 5. A new section of the Health Care Code is enacted to read:

"NEW MATERIAL" HOSPITALS--NURSE-TO-PATIENT STAFFING
RATIOS--AUTHORITY--COMMITTEE--POWERS AND DUTIES.--

A. Each hospital or hospital network shall establish a staffing committee to evaluate the hospital's staffing needs and make a hospital staffing plan.

B. To create the hospital staffing plan, a hospital staffing committee shall ensure that minimum nurse-to-patient staffing ratios set in Section 4 of the Safe Staffing Act are maintained by a hospital.

C. By October 1, 2027, the authority, with the advice of the statewide staffing advisory committee, shall hold hearings to promulgate rules regarding:

(1) minimum, specific and numerical licensed or certified staff-to-patient staffing ratios for hospitals for employees other than nurses in units set forth in Section 4 of the Safe Staffing Act;

(2) rural general acute care and critical access hospital staffing needs; provided that the ratios promulgated pursuant to Paragraph (1) of this subsection may be adjusted to accommodate these needs;

(3) emergency department staffing, which shall include the ratios provided pursuant to Paragraph (1) of this subsection but shall distinguish between regularly scheduled core staff nurses and additional nurses required to treat critical care patients. The authority may consider unlicensed personnel who provide direct patient care as a factor when setting nurse-to-patient staffing ratios;

(4) the documented patient classification systems to be used by hospitals in determining nursing care requirements, including the:

(a) severity of the illness to be treated;

(b) need for specialized equipment and technology;

(c) complexity of clinical judgment needed to design, implement and evaluate the patient care plan and the ability for self-care; and

(d) licensure of the personnel required for care; and

(5) circumstances in which it is permissible for a hospital to be outside of the established nurse-to-patient staffing ratios, including:

(a) when the number of patients in a hospital exceeds the nurse-to-patient staffing ratios, but only due to there being patients who: 1) have been cleared for

discharge but have not yet been discharged; or 2) are awaiting transfer to another facility;

(b) when a nurse is unable to report for a scheduled shift or must leave a shift early; and

(c) the duration of time in which a hospital unit may be outside of the established nurse-to-patient staffing ratios in one shift to allow time to bring in on-call nurses and other employees to meet the hospital unit's licensed nurse-to-patient staffing ratio.

D. The authority, in consultation with the statewide staffing advisory committee, shall review the rules promulgated in accordance with Subsection C of this section every five years."

SECTION 6. A new section of the Health Care Code is enacted to read:

"NEW MATERIAL HOSPITAL STAFFING RATIOS--HOSPITAL
POLICIES AND PROCEDURES--TRAINING.--

A. A hospital shall:

(1) be staffed at a level to meet the staffing ratios established pursuant to the Safe Staffing Act and the hospital staffing plan set by its staffing committee, which shall be the minimum number of registered and licensed nurses involved in direct patient care;

(2) adopt written policies and procedures for nursing staff and other employees involved in direct patient

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care and temporary personnel, which shall require:

(a) training and orientation for providing direct patient care;

(b) orientation for registered nurses and other employees sufficient to provide competent care to patients in a nursing unit or clinical area prior to assigning the registered nurse or other employees to those areas; provided that the registered nurse or other employee also demonstrates competency in providing care in the assigned area; and

(c) temporary personnel orientation and competency evaluation; and

(3) submit a semiannual report, completed by the hospital's director of nursing or chief nursing officer, to the statewide advisory staffing committee and the authority. The report shall document the hospital's plans and efforts to meet staffing ratios recommended by the statewide staffing advisory committee.

B. A hospital may have additional staff in accordance with a documented patient classification system.

C. A hospital shall not:

(1) assign unlicensed personnel to perform nursing functions in lieu of a registered nurse; or

(2) allow unlicensed personnel under the direct clinical supervision of a registered nurse to perform

functions that require a substantial amount of scientific knowledge and technical skills, including:

(a) administration of medication;

(b) intravenous therapy;

(c) parenteral or tube feedings;

(d) invasive procedures, including

inserting nasogastric tubes and tracheal suctioning;

(e) assessment of the condition of a

patient; and

(f) educating patients and their

families concerning the patient's health care problems,

including post-discharge care.

D. All hospitals shall adopt written policies and

procedures for training and orientation of nursing staff and

other employees involved in direct patient care. No registered

nurse or other employee involved in direct patient care shall

be assigned to a nursing unit or clinical area unless that

nurse or other employee involved in direct patient care has

first received orientation in that clinical area sufficient to

provide competent care to patients in that area and has

demonstrated current competence in providing care in that area.

The written policies and procedures for orientation of nursing

staff and other employees involved in direct patient care shall

require that all temporary personnel shall receive orientation

and be subject to competency validation.

E. Nothing in this section precludes a registered or licensed nurse from working within that person's scope of practice."

SECTION 7. A new section of the Health Care Code is enacted to read:

"NEW MATERIAL] HOSPITAL STAFFING RATIOS--VIOLATION--
ENFORCEMENT--REMEDIES.--

A. A hospital shall provide written notice to the authority and the statewide staffing advisory committee whenever there are seven deviations from any staffing ratios established in the Safe Staffing Act during a rolling ninety-day period. The written notice shall:

(1) be provided within ten days of a seventh deviation from the staffing ratios established pursuant to the Safe Staffing Act;

- (2) explain the cause of the deviations; and
- (3) provide a plan to prevent future deviations.

B. No later than October 1, 2027, the authority, with the advice of the statewide staffing advisory committee, shall hold a hearing to promulgate rules that establish a process for investigating and remedying any violation of hospital staffing requirements. The rules shall:

(1) specify reporting requirements for deviations consistent with this section;

(2) allow for the acceptance, investigation and resolution of complaints from hospital staff, exclusive representatives of hospital staff or members of the public; and

(3) provide an administrative appeals process for hospitals that are determined by the authority to be in violation of the hospital staffing requirements. A hospital shall have the right to judicial review of any final decision made by the authority pursuant to this section. A person aggrieved of a final agency decision by the secretary may appeal the decision to the district court as provided in Section 39-3-1.1 NMSA 1978.

C. If the authority determines, whether through a complaint process, hospital reporting or the authority's own independent investigation, that a hospital has engaged in a violation of staffing requirements, the authority shall:

(1) issue a warning for the first violation in a one-year period;

(2) impose a civil penalty on a sliding scale based on the number of beds in the hospital in an amount to be determined by the authority by rule, but not to exceed seventy dollars (\$70.00) per bed for the second violation of the same provision in a one-year period;

(3) impose a civil penalty on a sliding scale based on the number of beds in the hospital in an amount to be determined by the authority by rule, but not to exceed one

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1 hundred dollars (\$100) per bed for the third violation of the
2 same provision in a one-year period; and

3 (4) impose a civil penalty on a sliding scale
4 based on the number of beds in the hospital in an amount to be
5 determined by the authority by rule, but not to exceed two
6 hundred dollars (\$200) per bed for the fourth and subsequent
7 violations of the same provision in a one-year period.

8 D. If the authority finds that a hospital has
9 committed multiple violations of the staffing ratio
10 requirements of a similar nature, the authority shall require
11 the hospital to submit a corrective action plan for approval.
12 If a hospital does not follow the corrective action plan
13 approved by the authority, the hospital shall be fined in an
14 amount not to exceed fifty thousand dollars (\$50,000) every
15 thirty days until the hospital complies.

16 E. The requirements of this section or any rules
17 adopted in accordance with this section may be enforced by a
18 civil action brought by any interested person or organization
19 for injunctive relief. In the event such a suit is at least
20 partially successful, the court may award the interested person
21 or organization litigation costs and reasonable attorney fees.

22 F. A hospital is not required to follow the
23 staffing ratios established by the authority or the Safe
24 Staffing Act in the event of:

25 (1) a national or state emergency requiring

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1 the implementation of a facility disaster plan;

2 (2) sudden and unforeseen adverse weather

3 conditions;

4 (3) mass casualty incidents;

5 (4) pandemic, epidemic or endemic illnesses;

6 or

7 (5) a staffing ratio conflicting with federal

8 or state law regarding the governance requirements of a

9 hospital.

10 G. The authority may grant waivers to rural or

11 critical access hospitals for portions of the Safe Staffing Act

12 if the hospital is able to document reasonable efforts to

13 obtain adequate staff."

14 SECTION 8. A new section of the Health Care Code is

15 enacted to read:

16 "[NEW MATERIAL] AUTHORITY RULEMAKING AND DATA

17 COLLECTION.--

18 A. The authority shall collect and maintain the

19 following information on an annual basis beginning July 1,

20 2026:

21 (1) registered nurse retention rate, which is

22 the hospital's number of registered nurses on staff by using

23 the last four digits of each registered nurse's license number;

24 (2) agency and traveler nurse utilization,

25 which are the number of agency or travel registered nurses

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1 employed by the hospital and the duration of each contract.
2 The authority shall use these statistics to substantiate the
3 status of the state's registered nurse workforce shortage and
4 to track short staffing data trends;

5 (3) retention and turnover rates, which
6 includes hospital staff retention, turnover, voluntary turnover
7 and involuntary turnover rates and used by the authority to
8 determine the effectiveness of the Safe Staffing Act; and

9 (4) hospital staff position openings.

10 B. The authority shall conduct a comprehensive
11 assessment of the Nurse Licensure Compact and determine its
12 effect on the registered nurse workforce in New Mexico
13 hospitals. This assessment shall determine, among other
14 things, the number of registered nurses working in New Mexico
15 hospitals who hold New Mexico licenses but practice or live in
16 other states. The authority shall provide recommendations to
17 the governor and the legislature on improvements necessary to
18 address the registered nurse shortage in New Mexico.

19 C. The authority shall maintain a publicly
20 accessible website posting each hospital's annual retention
21 statistics, staffing levels, use of temporary contract staff,
22 financial expenditure reports and audit findings."

23 **SECTION 9. EMERGENCY.**--It is necessary for the public
24 peace, health and safety that this act take effect immediately.